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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,644	11/24/2003	Akiyoshi Chosokabe	Q78560	1192

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WASHINGTON, DC 20037

EXAMINER

YANG, ANDREW GUS

ART UNIT	PAPER NUMBER
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2628

MAIL DATE	DELIVERY MODE
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02/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/718,644

Applicant(s)

CHOSOKABE, AKIYOSHI

Examiner

Andrew Yang

Art Unit

2628

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.


REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See Continuation Sheet.

12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.


MARK ZIMMERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed January 31, 2007 have been fully considered but they are not persuasive. Applicant argues that the teachings of Nagoshi et al. are incompatible with the system of Iwasaki and that the combination would be so complex that they would not teach the approach of the present invention. However, the rationale behind the combination of Iwasaki and Nagoshi et al. does not depend on different methods of processing the images and no claim limitation exists regarding a simple approach. In response to applicant's argument that Iwasaki does not need a light source position, viewpoint position, and viewpoint direction, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Even if Iwasaki does not need said light source position, viewpoint position, and viewpoint direction, this does not teach away from combining the references because of the advantages of Nagoshi et al., namely to provide special effects to generate more realistic pictures (column 7, lines 1-7 of Nagoshi et al.). Applicant argues that the highlight position calculation means in the present invention is different from Iwasaki because the present invention calculates a position in the virtual three-dimensional space of an image representing a highlight. However, Iwasaki determines a position on the object in virtual three-dimensional space because it is inherent that the area on the polygon for pasting a reflection texture has a position in virtual three-dimensional space. Applicant argues that Iwasaki does not determine the position of the area based on the viewpoint position. However, it is deemed inherent that the viewpoint position affects the shape of the polygon being highlighted, thus affecting the shape of the reflection texture; therefore Iwasaki teaches that the highlight position, which depends on highlight shape, is calculated based on the viewpoint position. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reasoning behind the combination of Iwasaki and Nagoshi et al. is to generate more realistic pictures (column 7, lines 1-7 of Nagoshi et al.). Applicant argues that Iwasaki in combination with Nagoshi et al. do not calculate the highlight position in the virtual three-dimensional space. However, the car object on which the highlight is calculated is in virtual three-dimensional space of Iwasaki, and therefore the highlight is in virtual three-dimensional space. Applicant argues that Iwasaki does not need a highlight intensity calculation but even if Iwasaki does not need said highlight intensity calculation, this does not teach away from combining the references because of the advantages of Nagoshi et al., namely to provide special effects to generate more realistic pictures (column 7, lines 1-7 of Nagoshi et al.). Applicant argues that Iwasaki does not use transparency but this difference is taught by the Nagoshi et al. reference. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The motivation for combining Iwasaki with Nagoshi et al. is to generate a more realistic picture (column 7, lines 1-7). Applicant argues there is no teaching in Iwasaki that viewpoint position, viewpoint direction, and light source position is of significance for generation of an object with a reflection polygon. Again, even if viewpoint position, viewpoint direction, and light source position is of significance for generation of an object with a reflection polygon, this does not teach away from combining the references because of the advantages of Nagoshi et al., namely to provide special effects to generate more realistic pictures (column 7, lines 1-7 of Nagoshi et al.).